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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/001,565

11/15/2001

Anja Drucks

P29706

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EXAMINER

KIM, JENNIFER M

ART UNIT

PAPER NUMBER

1617

NOTIFICATION DATE

DELIVERY MODE

05/19/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/001,565</p>	<p><b>Applicant(s)</b> DRUCKS ET AL.</p>	
	<p><b>Examiner</b> Jennifer Kim</p>	<p><b>Art Unit</b> 1617</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 21-32, 34-41.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Jennifer Kim/  
Primary Examiner, Art Unit 1617

Continuation of 11. does NOT place the application in condition for allowance because:

The claims fail to patentably distinguish over the state of the art as represented by obvious composition of the cited references. Applicants essentially argue that GOTT does not mention water-jets. This is not found to be persuasive, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ullmann teaches that water jet bonding is well known in the art to soften a non-woven material. Thus, it would have been obvious to one of ordinary skill in the art to use water jet bonding to soften the non-woven material. Applicants argue that the Examiner has failed to explain why the alleged "uniform" porosity teaches or suggests a uniform sequence of elevations and indentation when coupled with the teaching of loft because the Examiner did not provide any written (or other) evidence. This is not found persuasive because the test for obviousness is not whether the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case, GOTT teaches "porosity" and "loft". Clearly, such porosity would be uniform to provide uniform drainage. Such porosity, would read on Applicants' sequence of elevations, and indentations, especially when coupled with the teaching of "loft". The Examiner further notes that Ullmann teaches that "creping" is well-known in the art to soften non-woven materials. Applicants argue that Applicants are not seen that "softness" is among the exemplary desirable substrate properties which are mentioned in paragraph [0047] of GOTT and that GOTT expressly mentions the exact opposite of softness, i.e. "sufficient abrasivity". This is not found persuasive because GOTT also teaches that the differing textures can result from the use of different combinations of materials or from the use of a substrate having a more abrasive side for exfoliation and a "softer", absorbent side for "gentle" cleaning. [0058]. Applicants argue that GOTT is absolutely clear that the lower limit of about 80% by weight is one of the critical features of the invention. This is not found persuasive because GOTT teaches water can be in any amount for examples, less than 80%. It is noted that, in table 3, GOTT discloses water at 75%, lower than what is alleged critical features by Applicants. Applicants argue that present claim 24 (which recites that the impregnation liquid is free of oil) but only one of GOTT's example is free of oil while the rest of the (seven) exemplary compositions of GOTT which were impregnated into a substrate contained an oil. This is not found to be persuasive because GOTT's single example is sufficient to motivate one of ordinary skill in the art to employ oil free impregnation liquid because GOTT illustrates and exemplifies as oil free impregnated liquid as an actual working example. Applicants argue that GOTT fails to teach present claims 34 and 35 drawn to the nonwoven material with the specific thickness, this is not found persuasive because to optimize the thickness, tear strength, expandability of the fibers to be sued are all deemed obvious because GOTT teaches that the characteristic of having sufficient wet strength for use, sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size and components of the impregnating composition in general.